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Paper No. 7

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SEP 10 2002

OFFICE OF PETITIONS

In re
Dong-seek Park, John Villasenor, Feng Chen,
Max Luttrell and Brendan Dowling
Reissue Application No. 09/996,086
Filing Date: September 21, 2001
Reissue of Patent No. 5,954,839
Original Issue Date: September 21, 1999
Title: ERROR PREVENTION METHOD FOR
MULTIMEDIA

DECISION ACCORDING STATUS
UNDER §1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 19, 2002.

The petition is GRANTED.

The above-identified reissue application of patent No. 5,954,839 (Issued September 21, 1999) was filed on September 21, 2001, without an executed reissue declaration and without the written consent of assignee and statement under 37 CFR 3.73(b)¹. Accordingly, on December 19, 2001, the Office mailed a "Notice to File Missing Parts of Reissue Application," requiring these items, along with the surcharge under § 1.16(e) for late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

Applicant replied with the instant petition under § 1.47, made timely by an accompanying petition for a five-month extension of time (and fee); payment of the petition fee; an "assent of assignees to reissue and statement under 37 CFR 3.73(b)," and a reissue declaration executed by joint inventors Max Luttrell, Brendan Dowling and Dong-seek Park on behalf of themselves and on behalf of non-signing inventors John Villasenor and Feng Chen. Rule 47 applicants assert that status under § 1.47 is proper because inventors Villasenor and Chen cannot be reached or found, after diligent effort, to join in the application. In support of the petition, applicants submitted the declaration of patent attorney George H. Gates to establish the pertinent facts.

¹37 CFR 1.172 (a) provides that:

A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of §3.73(b) of this chapter.

Attorney Gates declares that inventor Villasenor continues to work for assignee University of California. Thus, the reissue application was sent to inventor Villasenor at his Office E-mail three times, and its receipt was confirmed by inventor Villasenor's secretary. However, attorney Gates has not received a return copy of the reissue declaration from inventor Villasenor. As to inventor Chen, he no longer works for the assignee. Thus, the reissue application was sent to his last known address first by normal mail and subsequently by certified mail. Attorney Gates declares that the certified mail receipt was signed, albeit by a person other than inventor Chen. Attorney Gates has also not received a return copy of the reissue declaration from inventor Chen.

This evidence has been considered and it is concluded that rule 47 applicant has shown that the non-signing inventors are unavailable to join in the application. The evidence supports a conclusion that they either cannot be reached, after diligent effort, or by their conduct, refuse to sign the oath or declaration after having been presented with the application papers. The petition includes a statement of the last known addresses of both non-signing inventors.

The reissue declaration filed July 19, 2002, and the petition have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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LETTER

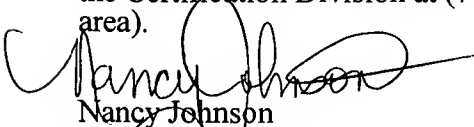
OFFICE OF PETITIONS

Dear Mr. Villaseñor:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).


Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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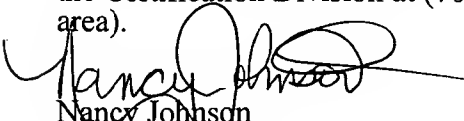
OFFICE OF PETITIONS

Dear Mr. Chen:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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